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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,845

07/11/2003

Robert G. Richard

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7987

7590

06/24/2005

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EXAMINER

DOERRLER, WILLIAM CHARLES

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/617,845		RICHARD ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	William C. Doerrler		3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-21 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10-14-2003</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,6,8,10,12-15,19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Flohr et al.

Flohr et al show a system for dispensing a fluid with multiple components with different boiling points. The composition of the mixture is maintained by metering in the component(s) with higher boiler points (abstract , paragraphs 15,24 and 26). The effective filing date of Flohr et al is seen as 3-20-2002 since it is a continuation. In regard to claims 3 and 15 it is noted that the claim does not specify when the liquefied gas is flashed to vapor. Due to the fact that Flohr discloses the mixture as a liquefied gas and is not clear whether it is a liquid or gas being injected to the container, the claim is seen as met since it will either be a liquid which will flash after injection or a gas which has been flashed prior to injection.

Claims 1-3,6,8,10,12-15,19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ide et al.

Art Unit: 3744

Ide et al in column 2 line 61-column 3 line 10 discloses a system for maintaining the composition of a liquid blend during dispensing of the blend as a liquid by injecting the gaseous phase of the component having a higher boiler point. In regard to claims 3 and 15 it is noted that the claim does not specify when the liquefied gas is flashed to vapor. Due to the fact that Ide et al discloses the mixture as a liquefied gas and states that a gas is being injected to the container, the claim is seen as met since it will either flash into the container, or flash, be stored as a gas and then admitted to the container.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4,5,11 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ide et al or Flohr et al.

Ide et al and Flohr et al each disclose applicants' basic inventive concept, a system for dispensing a liquid which is a blend of fluids having different boiling points with means to maintain the composition of the fluid in the source tank by injecting the higher boiling point fluid, substantially as claimed with the exception of specifying when the higher boiling point fluid is injected. It is considered obvious to an ordinary practitioner in the art that the fluid may be injected simultaneously with the dispensing of the liquid or after depending on the desired dispensing rate, the cost of the system and the required accuracy of the system.

Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Ide et al or Flohr et al in view of Green et al.

Ide et al and Flohr et al each disclose applicants' basic inventive concept, a system for dispensing a liquid which is a blend of fluids having different boiling points with means to maintain the composition of the fluid in the source tank by injecting the higher boiling point fluid, substantially as claimed with the exception of returning vapor from the container being filled. Green et al's line 62 shows this feature to be old in the vaporizing fluid dispensing art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention from the teaching of Green et al to modify the fluid dispensing system of either Ide et al or Flohr et al by adding a line to recover vapor from the container being filled to eliminate waste.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matheoud, Butler and Singleton show systems for dispensing blended fluids having means to maintain the composition of the blended fluids.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD